

RELEASE FROM CUSTODY

46.01: *Security*. Unless a personal recognizance or an unsecured bond is authorized for a defendant or a material witness, every bond shall be secured by either cash, negotiable United States Government securities, trust receipts issued in favor of the United States by the Trust Department of a national bank or a state bank which is a member of the Federal Reserve System, or one or more approved sureties (not exceeding three for any defendant unless the Court approves a higher number). The Court will not accept a pledge of personal property.

46.02: *Corporate Surety*. Only a corporate surety in good standing with the United States Treasury Department and which has designated a resident agent in the District of South Carolina as required by statute is acceptable as a surety on a bond for a defendant (or a material witness). If any corporate surety fails to pay a forfeiture on a bond ordered by the Court, upon proper notice to that surety and opportunity for it to be heard as to why it has failed to pay a forfeiture decreed, the Court may order the Clerk to strike its name from the list of approved corporate sureties eligible to execute bonds to be performed in the District of South Carolina, and to notify the Secretary of Treasury of such action. A list of these sureties can be obtained by contacting the Clerk of Court or through the Court's website (www.scd.uscourts.gov).

46.03: *Disclosure of Interest*. In every corporate surety bond proffered for filing in a criminal case in the District of South Carolina, the Court requires the attorney-in-fact who executes the bond on behalf of the corporate surety to disclose under oath the identity of the premium payor. In any case where the bond exceeds fifty thousand dollars (\$50,000), whether the surety is a corporation or an individual, the attorney-in-fact or individual surety must disclose the details of any collateral pledged to the surety to induce issuance of the bond and the details of any agreement to indemnify the surety should bond forfeiture be ordered.

46.04: *Use of Real Property as Security*. Whenever real estate is proposed to be used as security by an individual surety, such individual must demonstrate by satisfactory evidence that the unencumbered equity in such property is sufficient in amount to secure the bond. Such individual surety must agree to place a lien on the proffered real property. When the amount of the bond is more than twenty-five thousand dollars (\$25,000), the Court may require, in its discretion, independent appraisal to confirm the value of the property offered as collateral. In no event will an individual who seeks to justify as surety exclusively on the basis of real property be approved for an amount in excess of seventy-five percent (75%) of the equity in the property.

46.05: *[Prior rule deleted ("Use of Personal Property as Security") – substance incorporated in Local Criminal Rule 46.01 above.]*

46.06: *Prohibited Sureties*. Bail bondsmen who are authorized to write bonds in the state courts of South Carolina are not by such authorization eligible to serve as sureties in this Court. No bondsman or local bonding company will be approved as a surety unless the standards required of all corporate and individual sureties as specified by federal statutes, Rule 46 of the Fed. R. Crim. P., and these Rules are met. Members of the Bar and their spouses, officers and employees of this Court, and officers and employees of the United States Marshals Service are prohibited from acting as a surety unless the Court, by a special order that is filed as a public record, creates an exception based on the financial need of a particular defendant or material witness.

46.07: *Forfeiture of Collateral*. Pursuant to Rule 58 of the Fed. R. Crim. P., payment of a fixed sum may be accepted as to certain misdemeanor or petty offenses. Those offenses and corresponding forfeitures are set out in this District's standing Collateral Forfeiture Order which can be obtained from the Clerk of Court. The amount of collateral to be forfeited may be increased if the defendant fails to timely respond.